

# Australia

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## Freedom of the Press

Press freedom in Australia is upheld by convention rather than by constitutional guarantees, except in the state of Victoria, where it is protected under the Charter of Human Rights and Responsibilities. In 2006, Australia consolidated varying state-level defamation regulations under the Uniform Defamation Laws Reform Act, which allows only individuals, nonprofits, and corporations with fewer than 10 employees to sue over defamation. Although rarely invoked, criminal defamation laws are still on the books in Australia. Civil cases, which are more common, can result in heavy fines. A number of online defamation cases occurred in 2013, including *Banerji vs. Bowles*, in which the Federal Circuit Court found a public servant in breach of the government's social-media policy in September after she criticized official immigration policies on an anonymous Twitter account.

The 2011 Evidence Amendment Act protects the identity of journalists' sources and extends this protection to include bloggers, citizen journalists, independent media organizations, and anyone "active in the publication of news in any medium." Journalists are only compelled to reveal sources when it is proven that the public interest outweighs any potential harm to the source or the public caused by divulging the source's identity. The Evidence Amendment Act can only be applied in federal cases, however, and similar protection varies widely at the state level. Queensland and the Northern Territory have no legislation protecting the identity of journalists' sources, while the remaining states differ greatly on the extent of their coverage. Lacking uniform protection, journalists remain vulnerable to subpoenas seeking to obtain information on their confidential sources. In 2013, six Australian journalists received court orders to reveal their sources or face criminal convictions, fines, and/or jail terms. One of the cases involved journalist Steve Pennells, who was issued a subpoena by Australia's richest individual, Gina Reinhardt, after publishing articles on Reinhardt's feud with family members over a trust fund. The case was dismissed in August 2013, but the ruling indicated that shield laws may or may not be applied by the presiding judge in each individual case.

The Freedom of Information (FOI) Act of 1982 provides for access to government documents. Reforms passed in 2010 revised the fees charged for FOI requests, making them more accessible; allowed for fewer FOI exemptions; and created a new, single public-interest test weighted in favor of disclosure. In August 2013, the Australian government released an independent review of the 1982 FOI Act and the reforms passed in 2010, and found that both "have been instrumental in facilitating increased openness across government and the public sector."

Following the 2011 *News of the World* telephone-hacking scandal in Britain, the Australian government commissioned an inquiry to evaluate the regulatory environment surrounding the media. In 2012, the Independent Media Inquiry (IMI) found that self-regulation could no longer ensure media accountability and transparency, and recommended a form of statutory regulation to set and enforce certain standards for all Australian media outlets. In response to the IMI's findings and recommendations, the federal government introduced six media reform bills to the Australian Parliament in March 2013. Fearing undue interference in the independence of the press, the Parliament passed only two of the government's less controversial reforms. The federal government later withdrew the four remaining bills from consideration, including the highly controversial Public Interest Media Advocate Bill.

The Australian Communications and Media Authority (ACMA) has the power to censor internet content

hosted within Australia and maintains a “blacklist” of overseas websites. Since 2008, the federal government had proposed a mandatory filtering system that would require internet service providers (ISPs) to block access to banned material and other objectionable content hosted on overseas servers. In November 2012, however, the government abandoned its plan to make the filtering of foreign websites compulsory and narrowed the focus to child pornography websites specifically. Nonetheless, it was discovered in March 2013 that many ISPs had not adopted the government’s filtering scheme, with only a few blocking the most offensive websites listed on an Interpol database.

Attempts to exert control over media content occur occasionally. Throughout 2013, the government continued its practice of restricting media coverage at immigration detention centers. According to these restrictions, journalists must sign a “deed of agreement” that requires them to be accompanied by an immigration official and comply with all rules set by the immigration department throughout the duration of their visit. Communication with detainees remains limited, and any photographs, video footage, or audio recordings are subject to review by department officials for possible censorship or deletion. In September 2013, the Australian government introduced a new, more restrictive protocol for issuing information on asylum seeker boats. Information is now limited to a weekly government briefing, replacing the previous practice of issuing announcements in real time, and journalists’ questions do not have to be answered if “operational” concerns exist. Attacks and physical harassment targeting journalists are rare, and no cases were reported in 2013.

While most media are privately owned, ownership is highly concentrated, with the print media dominated by the Fairfax Group and News Corporation. In 2012, the Broadcasting Services Amendment (Public Interest Test) Bill was proposed as a means of limiting future ownership concentration, but the bill failed to secure passage in the Senate in November 2013. Australia also has a strong tradition of public broadcasting. The Australian Broadcasting Corporation (ABC), although state owned and entirely funded by the government, remains editorially independent.

In 2013, the internet was accessed by almost 82 percent of the population. Internet access is affordable for most Australians, and the government subsidizes satellite telephones and internet connections in rural areas.

## **2014 Scores**

### **Press Status**

Free

### **Press Freedom Score**

**(0 = best, 100 = worst)**

22

### **Legal Environment**

**(0 = best, 30 = worst)**

5

### **Political Environment**

**(0 = best, 40 = worst)**

10

## **Economic Environment**

**(0 = best, 30 = worst)**

7